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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,466	08/01/2003	Harry Darty	8049.0920	3834
22852	7590	09/02/2005	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			TWEEL JR, JOHN ALEXANDER	
			ART UNIT	PAPER NUMBER
			2636	

DATE MAILED: 09/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/632,466

Applicant(s)

DARTY, HARRY

Examiner

John A. Tweel, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-51 is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

1. This Office action is in response to the amendment filed 6/20/05. Claims 10, 18, 19, 25, 26, 33, 39, 40, and 48 have been amended. Claim 52 has been canceled.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Cordery et al** [U.S. 6,613,571] in view of **Bennett** [U.S. 5,023,595] and **Connor** [U.S. 4,363,438].

For claim 1, the mail collection point-of-use taught by **Cordery** includes the following claimed subject matter, as noted, 1) the claimed mail drop unit is met by the mailbox (No. 200) comprising an opening (No. 207) for receiving customer-deposited mail, 2) the claimed enclosure is met by the interior of the mailbox having openings and doors (Nos. 204 and 205) that seals the interior from the outside, 3) the claimed mail receptacle is met by the inner chamber (No. 214) positioned inside the enclosure, the inner chamber accumulating received customer-deposited mail, 4) the claimed detector is met by the plural sensors (Nos. 232, 236, and 237) positioned inside the enclosure and generating a detection signal upon detection of airborne hazardous material, and 5) the claimed indicator is read on the specification (Col. 7, Lns. 21-23) that state that a hazard indication is generated upon detection of the hazardous material. However, the indicator is not described as being positioned outside the enclosure. Only a

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communications device (No. 220) is located inside the enclosure for transmitting a hazard signal via a wired or wireless connection.

Locating indicators outside mailboxes is not new in the prior art. The mail arrival signal system taught by **Bennett** includes a visual and audible alert whenever mail is received inside of a small mailbox. One obvious advantage of this system is that it alerts a user in a remote location without having to check inside the mailbox.

The reference taught by Bennett shows plain evidence that external indicators have been used with mailboxes for some time. A system such as Bennett would have an ideal use with the Cordery reference in that an indication of hazardous material located on the outside of the repository would not require one to open the enclosure and thus expose oneself to the hazardous material. It would have been obvious to include an indicator positioned outside the Cordery enclosure for the purpose of issuing a positive and clear indication of hazardous material that does not require exposure to hazardous material. Also, there is no mention of the mail receptacle and the opening sized to permit removal of the receptacle through the opening.

Mail collecting receptacles have been sized to be accessible through doors for some time. The mailbox taught by **Connor** depicts a mailbag (No. 52) that is accessible through a door of the mail box (No. 10). As seen in Figure 4, the bag may be taken completely out of the box for transport elsewhere. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a mail receptacle sized to fit through a door for the purpose of easy access to mail and easy transport thereof.

For claim 2, the mail collection point-of-use taught by **Cordery** includes the following claimed subject matter, as noted, 1) the claimed mail drop unit is met by the mailbox (No. 200) comprising an opening (No. 207) for receiving customer-deposited mail, 2) the claimed enclosure is met by the interior of the mailbox having openings and doors (Nos. 204 and 205) that seals the interior from the outside, 3) the claimed mail receptacle is met by the inner chamber (No. 214) positioned inside the enclosure, the inner chamber accumulating received customer-deposited mail, 4) the claimed detector is met by the plural sensors (Nos. 232, 236, and 237) positioned inside the enclosure and generating a detection signal upon detection of airborne hazardous material, and 5) the claimed indicator is read on the specification (Col. 7, Lns. 21-23) that state that a hazard indication is generated upon detection of the hazardous material. However, the indicator is not described as being positioned outside the enclosure. Only a communications device (No. 220) is located inside the enclosure for transmitting a hazard signal via a wired or wireless connection.

The claim is interpreted and rejected for the same reasons and rationale as is mentioned in the rejection of claim 1 above. The reference does not mention the collection box positioned in a first wall; however, the reference is designed to be used in several different mailbox configurations, including a USPS Post Office mail slot, which is commonly positioned in a wall.

For claim 3, the mailbox of **Cordery** is hermetically sealed when the doors are closed (Col. 5, Lns. 7-10).

For claim 4, the **Cordery** reference does not mention the collection box having an opening corresponding in size and shape to the surrounding surfaces of a wall, however, the reference is designed to be used in several different mailbox configurations, including a USPS Post Office mail slot (Col. 3, Lns. 1-4), which have mail slots corresponding to wall surfaces. The reference refers to well known equipment for handling and moving mail pieces such as rollers and belts.

For claim 5, the reference is designed to be used in several different mailbox configurations, including a USPS Post Office mail slot (Col. 3, Lns. 1-4), which has mail slots corresponding to wall surfaces. The reference refers to well known equipment for handling and moving mail pieces such as rollers and belts.

For claim 6, the indicator of **Bennett** is positioned outside of the enclosure. To locate it within a non-customer-accessible work area is considered an obvious variation on the prior art, as the exact location of the indicator does not result in a new or unexpected result.

For claim 7, indicator flags have been used on mailboxes for many years. The inclusion of an indicator on the outside surface of a mailbox is not considered a patentable innovation, as this is a well-known and common indicator location.

For claim 8, the claimed means for increasing the rate at which any airborne hazardous material reaches the detector is met by the vacuum system (No. 233) with associated vacuum tube (No. 231). A means for selectively deactivating the rate-increasing means is not considered a patentable innovation as on-off switches have been used for a myriad of different uses, turning on vacuum systems among them.

For claim 9, the mail collection point-of-use taught by **Cordery** includes a duct (No. 231) through which air is sucked from the testing area.

For claim 10, vacuum systems commonly use fans to suck and direct air to operate. The inclusion of a fan or a switch for selective deactivation is not considered a patentable innovation as these are commonly used items used for obvious purposes.

For claims 11 and 12, the mail signal system taught by **Bennett** includes both visual and audible alerting means.

For claim 13, the enclosure taught by **Cordery** comprises a sealed container having front, top, back, and sidewalls, and the doors (Nos. 204 and 205) are positioned in the back wall.

For claim 14, the mail slot (No. 207) of **Cordery** extends like a flange from the enclosure.

For claim 15, the mail receptacle of **Cordery** is rigid and comprises a bottom and four sidewalls.

For claim 16, the mailbox taught by **Connor** includes a means (No. 54) for maintaining the top of the mail receptacle in an open position and at a fixed distance below the opening of the mail drop unit, wherein the mail receptacle comprises an expandable and collapsible container (No. 52).

For claim 17, the mailbox taught by **Connor** includes a positioning structure (No. 54) for maintaining the top of the mail receptacle in an open position and at a fixed distance below the opening of the mail drop unit, wherein the mail receptacle comprises an expandable and collapsible container (No. 52).

For claim 18, the mailbag used in **Connor** includes grommets. Brackets and hooks have been used with post office bags for decades and, as such, are not considered a patentable innovation.

### ***Response to Arguments***

#### ***Argument 1:***

"In order to cure the deficiencies of *Cordery*, the Examiner relies on *Bennett* for its asserted disclosure of 'locating indicators outside mailboxes.'...Applicant notes, however, that mail arrival signal system of *Bennett* teaches away from indicating the presence of a [sic] airborne hazardous material inside the enclosure. In *Bennett*, the switch means 14 is mounted in the interior 55 of the front door 44 of the mailbox 22 and is activated upon opening of door 44...Switch 14 then completes an electric circuit and energizes transmitter means 20, which provides an alarm signal to a receiver 24 positioned outside the enclosure...In *Cordery*, however, communications device 220 generates an indication only upon detection of hazardous material in the air, not when the external door 219 of enclosure is opened."

4. Applicant's arguments filed 6/20/05 have been fully considered but they are not persuasive.

#### ***Response to Argument 1:***



In response to applicant's argument that the **Bennett** reference teaches away from indicating the presence of an airborne hazardous material, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Furthermore, the Examiner relied on the Bennett reference for evidence of external indicators found in mailboxes, which the Cordery reference plainly is.

5. Claims 19-51 are allowed.

6. The following is a statement of reasons for the indication of allowable subject matter:

Means for detecting and indicating the presence of airborne hazardous material is not new in the prior art as noticed in the prior art mentioned above. However, the allowed claims referred to also include some means for maintaining the top of a mail receptacle in an open position and at a fixed distance below the opening of the mail drop unit in conjunction with an additional means for establishing the bottom of the mail receptacle to a first position below the top when empty and lowering the bottom of the receptacle to a second position as a function of the weight of the accumulated mail, this

along with the detection and indication means. This combination cannot be found in the prior art in an obvious combination.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John A. Tweel, Jr. whose telephone number is 571 272 2969. The examiner can normally be reached on M-F 10-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Hofsass can be reached on 571 272 2981. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JAT  
9/1/05

A handwritten signature in black ink, appearing to read 'John Tweel', with a stylized, cursive script.

**JOHN TWEEL**  
**PRIMARY EXAMINER**